STATE OF NEW YORK

5491--A

2025-2026 Regular Sessions

IN ASSEMBLY

February 14, 2025

Introduced by M. of A. BICHOTTE HERMELYN, RAGA, GONZALEZ-ROJAS, HOOKS, O'PHARROW, LEVENBERG, HYNDMAN, TAYLOR, NOVAKHOV, SANTABARBARA -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law, in relation to providing for prompt payment by contractors receiving public funds of amounts owed to small businesses and minority-owned business enterprises

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The state finance law is amended by adding a new section 149 to read as follows:

§ 149. Prompt contracting and payments for small business and minority-owned business enterprise subcontractors. 1. For the purposes of this section:

(a) "Covered project" shall mean a project which is paid for in whole or in part out of public funds as such term is defined in this section where the amount of all such public funds, when aggregated, is at least thirty percent of the total project costs and where such project costs are over twenty-five thousand dollars.

(b) "Paid for in whole or in part out of public funds" means any of the following:

(i) the payment of money, by a public entity, or a third party acting on behalf of and for the benefit of a public entity, directly to or on behalf of the contractor, subcontractor, developer or owner that is not subject to repayment; or

(ii) the savings achieved from fees, rents, interest rates, or other loan costs, or insurance costs that are lower than market rate costs; savings from reduced taxes as a result of tax credits, tax abatements, tax exemptions or tax increment financing; savings from payments in lieu of taxes; and any other savings from reduced, waived, or forgiven costs

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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that would have otherwise been at a higher or market rate but for the involvement of the public entity.

(c) "Contract" means an enforceable agreement entered into by a contractor and a subcontractor.

(d) "Contractor" means any person, partnership, firm, corporation, or association rendering or providing services pursuant to a contract with a state agency.

(e) "Subcontractor" means a person engaged by a contractor or another subcontractor to perform a portion of the contractor's obligations under a contract.

(f) "Small business concern" or "small business" means a business which is resident in this state, independently owned and operated, not dominant in its field and employs one hundred or less persons.

(g) "Minority-owned business enterprise" has the meaning set forth in subdivision seven of section three hundred ten of the executive law.

(h) "Entity" means a public entity or third party acting on behalf of and for the benefit of a public entity.

(i) "Public entity" means any organization, body, or institution that operates on behalf of the government and is involved in a covered project.

2. Upon receipt of an undisputed invoice generated by a small business, minority-owned business enterprise or vendor management service and managed service provider on behalf of the small business or minority-owned business enterprise for services rendered, the entity receiving payment for a covered project shall issue payment no later than ten business days from receipt of such invoice. Date of invoice service period shall not exceed ten business days. Failure by the contractor to make any payment, including any remaining amounts of the contract balance to any small business or minority-owned business enterprise, shall result in the commencement and accrual of interest on amounts due to such subcontractors. Such interest shall be the sole responsibility of the entity, and shall be paid at the rate of interest in effect on the date payment is made by the entity.

§ 2. This act shall take effect immediately.